

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of            ) NOTICE OF AMENDMENT  
ARM 37.106.2301 and 37.106.2311        )  
pertaining to hospice facilities            )

TO: All Concerned Persons

1. On October 23, 2008, the Department of Public Health and Human Services published MAR Notice No. 37-455 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2255 of the 2008 Montana Administrative Register, Issue Number 20.

2. The department has amended ARM 37.106.2301 as proposed.

3. The department has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.106.2311 MINIMUM STANDARDS FOR A RESIDENTIAL HOSPICE FACILITY (1) through (9)(c) remain as proposed.

(10) A residential hospice must meet the following meal service, menu planning, and supervision standards:

(a) and (b) remain as proposed.

(c) the food service must establish and maintain standards relative to food sources, refrigeration, refuse handling, pest control, storage, preparation, procuring, serving, and handling that are sufficient to prevent food spoilage and transmission of infectious disease ~~shall comply with the Montana administrative rule requirements for compliance with ARM Title 37, chapter 110, subchapter 2, Food Service Establishments administered by the Food and Consumer Safety Section of the Department of Public Health and Human Services.~~

(d) through (13) remain as proposed.

AUTH: 50-5-103, 50-5-201, MCA

IMP: 50-5-210, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: In proposed amendment to ARM 37.106.2311(10)(c) it was stated that incorporating the food service establishment regulations would be overwhelming and burdensome for the small, residential facilities to implement. The proposed regulation change would have the potential to impede the delivery of residential hospice services, and/or the construction of any new facilities in the state.

RESPONSE #1: The department concurs and understands that the current regulations are sufficient in preventing the spread of infection or disease in residential hospice facilities. The department made its correction to proposed rule ARM 37.106.2311(10)(c) as shown above.

COMMENT #2: There was concern that the provisions referenced in the food services rules in Title 37, chapter 110, subchapter 2 are more stringent than necessary for residential hospice facilities.

RESPONSE #2: Please see response to comment #1.

/s/ Lisa A. Swanson  
Rule Reviewer

/s/ Anna Whiting Sorrell  
Anna Whiting Sorrell, Director  
Public Health and Human Services

Certified to the Secretary of State March 16, 2009.